

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN CIVIL LIBERTIES UNION,)	
et al.,)	
)	
Plaintiffs.)	
)	
v.)	Civil Action No.
)	98-CV-5591
ALBERTO R. GONZALES, in his official)	
capacity as Attorney General of)	
the United States.)	
)	
Defendant.)	
_____)	

DEFENDANT'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant, by his attorneys, the United States Department of Justice, hereby requests that Plaintiffs respond to the interrogatories propounded below in accordance with the Definitions and Instructions, within thirty days after service, as prescribed by the Federal Rules of Civil Procedure, at the office of Defendant's attorney, Karen Stewart, Senior Trial Counsel, United States Department of Justice, 20 Massachusetts Avenue, N.W., Room 7200, Washington, D.C. 20001.

INSTRUCTIONS

1. You are required to respond to these interrogatories in writing after making relevant inquiries of all individuals who may have the knowledge required, to respond fully to each interrogatory of documents. You must divulge or produce all information that is in your possession, custody or control or that is in the possession, custody or control of your attorneys, investigators, agents, employees,

- boards, supervisors, overseers, consultants, contractors, or other representatives of yourself or your attorneys from December 1, 1997 to the present.
2. If you are unable to respond to any part of the following interrogatories in full, please respond to the extent possible and specify your reasons for not responding completely. If you lack information necessary to respond fully to any interrogatory, please describe the specific efforts made by you or by anyone on your behalf to ascertain the information and state as definitively as possible when you anticipate obtaining the information sought and supplementing your response. If any requested information cannot be produced in full, provide it to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge, or belief you have concerning the unproduced portion.
 3. In the event that any information called for by these interrogatories is withheld on the basis of any claim of privilege or any other objection, please identify the document by providing the following information: (1) name, position and title of the author; (2) name, position and title of the addressee; (3) date, subject matter, and number of pages, attachments or appendices; (4) all persons to whom distributed, shown or explained; (5) present custodian; and (6) the nature of the privilege or objection asserted.
 4. In the event that any information called for by these interrogatories is withheld on the basis of disclosure of any trade secret or other confidential research, development, or commercial information, please identify the information by providing the following information: (1) name, position and title of the person

- with knowledge of the information; (2) all persons to whom such information was distributed, shown or explained; and (3) the nature of the trade secret or other confidential research, development, or commercial information.
5. When and if any interrogatory of documents contains separately numbered or lettered paragraphs, each separately numbered or lettered paragraph should be treated separately and a separate response furnished.
 6. Where a interrogatory calls for identification of a particular webpage or webpages of a website plaintiff, you are requested (i) to provide that webpage or those webpages on the website as of the date of your response to these requests in an electronic format (i.e., by providing a screen shot, such as that captured by the “Print Screen” key) stored on a permanent or semi-permanent media such as a CD, DVD, or other agreed-upon storage medium, and (ii) to provide the URL address of that webpage or those webpages in order to allow determination of where the webpage or webpages are located in that plaintiff’s website.
 7. These interrogatories are continuing in nature and require prompt supplementary responses if you obtain additional or different information after serving the responses required herein.

DEFINITIONS

For the purposes of these Interrogatories, the following definitions apply:

- A. “ALCU member” means each member of the American Civil Liberties Union (ACLU) that the ACLU has brought suit on behalf of in ACLU, et al. v. Gonzales, No. 98-5591 (E.D. Pa.).

- B. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside of its scope.
- C. “Communication” or “correspondence” means any meeting, conversation (however conducted), discussion, message, or other occurrence whereby thoughts, opinions, data or other information are transmitted between or among persons.
- D. “Document” means the original and any non-identical copy (whether different from the original because of notes made thereon or attached to such copy, or otherwise) of any writing, drawing, graph, chart, paper, photograph, film, video recording, audio recording, or other data compilation or communication of any sort from which information can be obtained, however produced, reproduced, or maintained (and in whatever medium, including, but not limited to, in electronic form).
- E. “ICF product” means a technological product, download, service, or solution (whether software, hardware, or other medium) that is utilized to block the availability of content on the Internet, and that has been marketed, sold, or distributed between January 1, 1997 and the present.
- F. “Identify,” when used with respect to persons, means to state, to the extent known, the person’s full name, present or last known address, business and home telephone number, and present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

- G. “Identify,” when used with respect to documents, means to state, to the extent known, (a) the nature of the document (i.e, letter, photograph, memorandum, etc.); (b) its date; (c) its author(s); (d) the title or position of its author(s); (e) its recipient(s); (f) the title and position of its recipient(s); (g) its number of pages; and (h) its subject matter.
- H. “Indicating” means describing, constituting, containing, evidencing, indicating, providing, or reflecting.
- I. “Parties” means the parties to the litigation ACLU, et al. v. Gonzales, No. 98-5591 (E.D. Pa.).
- J. “Person” means any natural person, or any business, legal or governmental association, organization, or entity.
- K. “Representative Sample” means a sample of ten to fifty webpages that has approximately the same distribution of characteristics (i.e., degree of explicitness of sexual content) as the population or universe from which it was drawn and has been selected in a manner which permits projection of results from the sample to the population or universe from which it was drawn.
- L. “Studies” mean internal company analyses, memoranda, papers, presentations, reports, studies, or surveys, commissioned third party analyses, memoranda, papers, presentations, reports, studies, or surveys, or generally available third party analyses, memoranda, papers, presentations, reports, studies, or surveys in your possession or control, or the most final draft of any of the above where no final version exists as of the date of your response to these requests.

- M. “Website plaintiff” means each named plaintiff that operates a website, including, for example, the ACLU.
- N. “You” and “your” refers to each plaintiff.
- O. The singular of any word includes the plural and vice versa.

INTERROGATORIES

Interrogatory No. 1.

Identify all witness you intend to call at trial, including the specific website plaintiffs and expert witnesses you intend to call at trial.

Interrogatory No. 2.

Identify all documents, including webpages, you intend to introduce as evidence in this litigation.

Interrogatory No. 3.

For each website plaintiff, identify the annual number of visitors to your website.

Interrogatory No. 4.

Identify the date copied, as well as the minimum hardware and software requirements and necessary instructions to navigate, search, and fully access each copy of each website plaintiff’s website that is provided in response to Request No. 1 of Defendant’s First Request for Production of Documents.

Interrogatory No. 5.

For each website plaintiff, identify any registration or other gathering of identifying information you ask for, require, or otherwise obtain (including information obtained by cookies, adware, spyware, or third parties) from your visitors to your website, such as name, address, phone number, e-mail address, i.p. address, etc.

Interrogatory No. 6.

For each website plaintiff, identify, on an annual basis, the number of visitors to your website.

Interrogatory No. 7.

For each website plaintiff, identify, on an annual basis, the number or proportion of visitors to your website that have provided a credit card number either directly to you or to any third party with whom you have entered into an agreement to operate or maintain credit card transactions with your site.

Interrogatory No. 8.

For each website plaintiff, identify the number and value of charge-backs to issuing banks of credit cards and the reason offered by the cardholder for the chargeback, including unauthorized use by a minor.

Interrogatory No. 9.

For each website plaintiff, identify all federal or state threats of prosecution concerning the sexual content on that plaintiff's website and the particular webpages containing the material upon which those threats of prosecution were directed.

Interrogatory No. 10.

Identify the number of ACLU members.

Interrogatory No. 11.

For each ACLU member, identify the number or proportion of those members who have children under 17 and use ICF products.

Interrogatory No. 12.

Identify the number or proportion of ACLU members who have provided a credit card number to a website in order to purchase membership, online content, and/or other items for sale, to make a donation, or to make a reservation (such as a rental car or hotel reservation).

Interrogatory No. 13.

For each website plaintiff, identify a representative sample of webpages on your website which contains material about which you fear prosecution under COPA, as referenced in Paragraph 2 in the section titled “The Impact of COPA on Plaintiffs” on page 24 of the Amended Complaint that “[P]laintiffs fear prosecution under COPA for communicating, sending, displaying, or distributing material that might be deemed ‘harmful to minors’ by some community in the United States.”

Interrogatory No. 14.

For each website plaintiff, identify a representative sample of webpages on your website which you believe contains material that has serious literary, artistic, political, scientific and/or social value for adults.

Interrogatory No. 15.

For each website plaintiff, identify a representative sample of webpages on your website which you believe contains material that has serious literary, artistic, political, scientific and/or social value for children under 17.

Interrogatory No. 16.

For each plaintiff's website, identify a representative sample of webpages which you believe contains material to which children under 17 should not be exposed.

Dated: August 26, 2005

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